

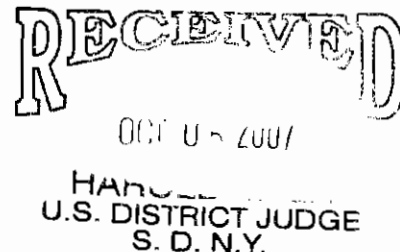
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THE CITY OF NEW YORK  
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October 5, 2007

By Fax: (212) 805-7901  
Honorable Harold Baer, Jr.  
United States Magistrate Judge  
Southern District of New York  
500 Pearl Street – Courtroom 23B  
New York, New York 10007



Re: Rivera v. City of New York et al., 07 CV 07771 (HB)

Your Honor:

I am an attorney in the office of Michael A. Cardozo, Corporation Counsel of the City of New York, representing defendant City of New York ("City") in the referenced action. I am writing to request an extension of the City's time to answer or otherwise respond to the complaint from October 8 to December 7, 2007.<sup>1</sup> Should the Court grant the extension, it is requested that the Court adjourn the initial conference scheduled for November 1, 2007 to a date after defendants' answer becomes due. I have conferred with plaintiff's counsel and he has consented to the extension.<sup>2</sup>

There are several reasons for seeking the extension. In his complaint, plaintiff alleges, *inter alia*, that he was falsely arrested and that police officers used excessive force in effectuating his arrest. In order to respond to these allegations, we need to obtain records of the underlying

<sup>1</sup> According to the civil docket sheet, the other named defendants in this action, Police Officer Fernandez, Lieutenant Griffith and Sergeant Blaize, have been served with process on 9/19, 9/19 and 10/2/07 respectively. This office has not discussed with these officers the manner of service and we make no representation herein as to the adequacy of service upon them. Although this office does not represent these officers, and assuming they was properly served, we respectfully request this extension on their behalf so that their defenses are not jeopardized while representational issues are being decided.

<sup>2</sup> Plaintiff's counsel has informed me that he cannot, in any event, attend the November 1, 2007 conference because he will be on vacation that week.

criminal case including police records. It is our understanding that these records are sealed pursuant New York Criminal Procedure Law § 160.50. We have forwarded the necessary consent authorization to plaintiff so that we can access the sealed records, properly assess the case and respond to the complaint.

The enlargement will allow this office time to conduct an inquiry to determine whether it could represent the other named defendants in this action. See General Municipal Law § 50(k); Mercurio v. The City of New York, et al., 758 F.2d 862, 864-65 (2d Cir. 1985); Williams v. City of New York, et al., 64 N.Y.2d 800, 486 N.Y.S.2d 918 (1985) (decision whether to represent individual defendants is made by the Corporation Counsel as set forth in state law). Defendants must then decide whether they wish to be represented by the Corporation Counsel, see Dunton v. County of Suffolk, 729 F.2d 903 (2d Cir. 1984). Only then can this office interview them for the purposes of responding to the complaint. It has been our experience that this entire process takes approximately two months to complete.

No previous request for an extension has been made by either party. Accordingly, it respectfully requested that the Court grant the City's application to extend its time to answer or otherwise respond to the complaint from October 8 to December 7, 2007. Should the Court grant the extension, it is requested that the Court adjourn the initial conference scheduled for November 1, 2007 to a date after defendants' answer becomes due.

Respectfully submitted,

Steve Stavridis  
Special Federal Litigation Division

Enc.: Civil Docket Sheet

cc: Darius Wadia, Esq. (by Fax: (212) 571-9149)  
Attorney for Plaintiff

Endorsement:

I'll adjourn to Nov. 19 at 3:00 P.M. with the understanding that the plaintiff provide all consent authorizations to me within 10 days from date hereof if not arrange telephone conference for that day. This requires an answer no later than 11/19/07 as well.